

PATENT

MS160207.01/MSFTP182US

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Himanshu S. Amin**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicants(s): John T. Lette, *et al.*

Examiner: Philip C. Lee

Serial No: 09/770,056

Art Unit: 2154

Filing Date: January 25, 2001

Title: SYSTEM AND METHOD FOR PROCESSING REQUESTS FROM NEWLY
REGISTERED REMOTE APPLICATION CONSUMERS

Mail Stop Appeal Brief-Patents
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APPEAL BRIEF

Dear Sir:

Applicants' representative submits this brief in connection with an appeal of the above-identified patent application. A credit card payment form is filed concurrently herewith in connection with all fees due regarding this appeal brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [MSFTP182US].

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I. Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

The real party in interest in the present appeal is Microsoft Corporation, the assignee of the present application.

II. Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))

Appellants, appellants' legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which may be related to, will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims (37 C.F.R. §41.37(c)(1)(iii))

No claims have been withdrawn, canceled or allowed. Claims 1-32 stand rejected by the Examiner. The rejection of claims 1-32 is being appealed.

IV. Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))

Claim 31 was amended after final to conform with the Examiner's recommendation, and claims 1-9, 11-21 and 24-27 were amended to address minor informalities. In addition, the Advisory Action (dated March 31, 2005) indicates that for the purposes of appeal the amendments made in the Reply to Final Office Action (dated January 10, 2005) have been entered.

V. Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))**A. Independent Claim 1**

Independent claim 1 relates to a system for pre-allocating at least one resource, comprising: an allocator that pre-allocates the at least one resource; an identifier that determines whether a consumer utilizing the at least one resource is a registering consumer or a registered consumer; an associator that associates the at least one pre-allocated resource with a first resource manager, the first resource manager operable to manage the at least one pre-allocated resource for the registering consumer; and a router that routes a request requiring access to the at least one resource associated with the registering consumer to the first resource manager. (See e.g., page 2, line 17-page 3, line 30).

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B. Independent Claim 23

Independent claim 23 relates to a method for processing requests from a registering consumer, comprising: pre-allocating one or more resources for one or more registering consumers; associating one or more of the pre-allocated resources with a first resource managing component, the first resource managing component operable to manage the one or more pre-allocated resources for the registering consumer; associating the registering consumer with the first resource managing component; and routing a request from the registering consumer that requires access to a resource to the first resource managing component. (*See e.g.*, page 4, lines 18-25).

C. Independent Claim 31

Independent claim 31 relates to a data packet adapted to be transmitted between two or more computer processes, the data packet comprising: information concerning pre-allocating one or more resources for access by one or more registering consumers, the information including at least one of: a resource type; a resource name; a resource capacity; a resource location; a resource availability; an association between a resource and a resource managing component. (*See e.g.*, page 5, lines 4-10).

D. Independent Claim 32

Independent claim 32 relates to a system for pre-allocating at least one resource. The system includes means for pre-allocating the at least one resource for consumption by a consumer. (*See e.g.*, page 8, lines 5-12). The system further includes means for determining whether data concerning the consumer has been replicated to one or more resource managing components. (*See e.g.*, page 9, line 26-page 10, line 2). Additionally, the system includes means for associating the at least one pre-allocated resource with a first resource managing component, where the first resource managing component manages the at least one pre-allocated resource for the consumer before the data concerning the consumer has been replicated to the one or more resource managing components. (*See e.g.*, page 10, line 17-page 11, line 7). In addition, the system includes means for routing a request generated by the consumer, for whom data has not

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been replicated to the one or more resource managing components, to the first resource managing component. (*See e.g.*, page 12, lines 9-29).

The means for limitations described above are identified as limitations subject to the provisions of 35 U.S.C. §112 ¶6. The corresponding structures are identified with reference to the specification and drawings in the parentheticals above corresponding to those claim limitations.

VI. Grounds of Rejection to be Reviewed (37 C.F.R. §41.37(c)(1)(vi))

A. Claims 1-9, 22-23, 25, 27-30, and 32 stand rejected as being unpatentable under 35 U.S.C. §103(a) over Takahashi *et al.* (US 6,539,481) in view of Patterson *et al.* (US 6,504,913).

B. Claim 31 stands rejected as being unpatentable under 35 U.S.C. §103(a) over Patterson *et al.* in view of Takahashi *et al.*

C. Claims 10-11, and 26 stand rejected as being unpatentable under 35 U.S.C. §103(a) over Takahashi *et al.* and Patterson *et al.* in view of Makarios *et al.* (US 6,401,125).

D. Claims 12-21, and 24 stand rejected as being unpatentable under 35 U.S.C. §103(a) over Takahashi *et al.* and Patterson *et al.* in view of Zadikian *et al.* (US 6,631,134)

VII. Argument (37 C.F.R. §41.37(c)(1)(vii))

A. Rejection of Claims 1-9, 22-23, 25, 27-30, and 32 Under 35 U.S.C. §103(a)

Claims 1-9, 22-23, 25, 27-30, and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi *et al.* (US 6,539,481) in view of Patterson *et al.* (US 6,504,913). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Takahashi *et al.* and Patterson *et al.*, individually and/or in combination, do not teach or suggest all limitations as recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the

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knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) *must teach or suggest all the claim limitations*. The *teaching or suggestion to make the claimed combination* and the reasonable expectation of success *must be found in the prior art and not based on the Applicant's disclosure*. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

Applicants' claimed invention relates to a system and method for pre-allocating resources to improve consumer experiences associated with registering for, and subsequently using, an application and/or service available over the Internet by reducing the problems associated with resource allocation delays and replication latencies. Independent claim 1 (and similarly claims 23 and 32) recites *pre-allocation of at least one resource*, wherein the pre-allocated resource is associated with and managed by a resource manager. The resource manager then provides access to the pre-allocated resource to a consumer upon receiving a request for such access during consumer registration. The Examiner concedes that Takahashi *et al.* does not teach or suggest pre-allocation of a resource as recited in the subject claims, but contends Patterson *et al.* teaches such aspects and that it would be obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Takahashi *et al.* and Patterson *et al.* to render applicants' claimed invention. Applicants' representative respectively disagrees.

Patterson *et al.* teaches a call handling mechanism that utilizes a priority mechanism for controlling the allocation of functional modules to process a received call, wherein a resource manager allocates functional modules in accordance with a priority order. (See Abstract). In particular, Patterson *et al.* discloses a process for registering telephony functions such as voice, fax, and data applications. (See col. 6, lines 29-31). At installation, each application registers with a device dispatcher. (See col. 6, lines 32-35). The device dispatcher queries each application for *characteristics*, which include pre-allocated priority information that determines whether the application is a voice, fax or data application. (See col. 6, lines 35-40). The priority information is then used by the device dispatcher to prioritize the order in which voice, fax and data applications are notified with respect to incoming calls. (See col. 6, lines 40-48). The priority information can further be utilized for telephony function discrimination between voice, fax and data applications, for example, to guarantee that a voice application will be offered the

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chance to handle calls before a fax application, and the fax application will be offered the chance to handle calls before a data application. (See col. 8, lines 6-12).

Contrary to the Examiner's assertion and in view of the above, Patterson *et al.* does not teach or suggest pre-allocating a resource for utilization by a consumer as recited in the subject claims, and/or guaranteeing a consumer the chance to handle a service request. Rather, Patterson *et al.* discloses pre-allocating a priority *characteristic* indicative of a type (voice, fax or data) of a telephony application used to determine a priority order in which to notify telephony applications; this pre-allocated priority *characteristic* is not a pre-allocated application resource consumed by a consumer as recited in the subject claims, but instead the pre-allocated priority characteristic disclosed in the cited document is used to determine a priority ordering in which to notify telephony applications. Accordingly, the rejection of independent claims 1, 23, and 32 (and dependent claims 2-9, 22, 25, and 27-30) should be withdrawn.

B. Rejection of Claim 31 Under 35 U.S.C. §103(a)

Claim 31 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Patterson *et al.* in view of Takahashi *et al.* Withdrawal of this rejection is requested for at least the following reasons. The combination of Patterson *et al.* and Takahashi *et al.* does not teach or suggest all the limitations recited in the subject claim.

In the Final Office Action (dated January 10, 2005), it was conceded that Patterson *et al.* did not teach or suggest *an association between a resource managing component and the registering consumer* as recited in the subject claim. In order to make up for the deficiency of Patterson *et al.*, the Examiner contended that Takahashi *et al.* taught such an aspect. Applicants' representative respectfully avers to the contrary, and asserts that Takahashi *et al.* fails to teach or suggest such novel aspects of the claimed invention.

Takahashi *et al.* discloses a computer resource assignment apparatus, wherein a computer request processing section assigns a computer resource to a user in response to a temporary registration request from the user, and a registration request processing section that sends a user's request to a computer resource management section. (See Abstract and col. 5, lines 34-37). In particular, the computer resource management section secures an area of the home directory in order to newly assign the home directory to the user and further allots an empty area in the computer resource pool to a user. (See col. 6, lines 34-39). Takahashi *et al.* however is

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silent regarding an association between the computer resource management section and the registering user as recited in the subject claim.

In view of at least the forgoing, it is respectfully submitted that neither Patterson *et al.* nor Takahashi *et al.*, alone or in combination, teach or suggest applicants' invention as recited in the subject claim, and withdrawal of this rejection is respectfully requested.

C. Rejection of Claims 10-11, and 26 Under 35 U.S.C. §103(a)

Claims 10-11, and 26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi *et al.* and Patterson *et al.* in view of Makarios *et al.* (US 6,401,125). It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Claims 10-11 and 26 depend from independent claims 1 and 23, respectively, and Makarios *et al.* does not make up for the aforementioned deficiencies of Takahashi *et al.* and Patterson *et al.* regarding these independent claims. Instead, Makarios *et al.* is directed towards techniques for aiding intelligent proxies in identifying clients or users so that proxies may appropriately customize network communications for those users. (See col. 1, lines 19-22). Accordingly, the combination of Takahashi *et al.*, Patterson *et al.* and Makarios *et al.* does not make obvious the subject claims. Therefore, it is respectfully requested that this rejection be withdrawn.

D. Rejection of Claims 12-21, and 24 Under 35 U.S.C. §103(a)

Claims 12-21, and 24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Takahashi *et al.* and Patterson *et al.* in view of Zadikian *et al.* (US 6,631,134). Claims 12-21 depend from independent claim 1 and claim 24 depends from independent claim 23, and Zadikian *et al.* fails to make up for the aforementioned deficiencies of Takahashi *et al.* and Patterson *et al.* with respect to these independent claims. Zadikian *et al.* teaches a method for allocating bandwidth in an optical network, wherein a service provider determines an amount of bandwidth available between a first and second node and then allocates at least a portion of the amount of bandwidth available so long as the bandwidth requirement is not greater than the amount of bandwidth available. Accordingly, withdrawal of the rejection is requested.

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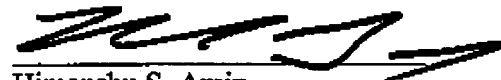
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E. Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited reference. Accordingly, it is respectfully requested that the rejections of claims 1-32 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP182US].

Respectfully submitted,
AMIN & TUROCY, LLP



Himanshu S. Amin
Reg. No. 40,894

AMIN & TUROCY, LLP
24th Floor, National City Center
1900 East 9th Street
Telephone: (216) 696-8730
Facsimile: (216) 696-8731

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IX. Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

1. A system for pre-allocating at least one resource, comprising:
an allocator that pre-allocates the at least one resource;
an identifier that determines whether a consumer utilizing the at least one resource is a registering consumer or a registered consumer;
an associator that associates the at least one pre-allocated resource with a first resource manager, the first resource manager operable to manage the at least one pre-allocated resource for the registering consumer; and
a router that routes a request requiring access to the at least one resource associated with the registering consumer to the first resource manager.
2. The system of claim 1, the at least one resource is allocated to a consumer registering to use an application.
3. The system of claim 2, the application is available over a network.
4. The system of claim 3, the network is the Internet.
5. The system of claim 1, the at least one resource is allocated to a consumer registering to use a service.
6. The system of claim 5, the service is available over the Internet.
7. The system of claim 1, the identifier is a computer process.
8. The system of claim 1, the associator is a computer process.
9. The system of claim 1, the router is a computer process.

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10. The system of claim 1, the identifier operable to receive Hypertext Transfer Protocol (HTTP) requests.
11. The system of claim 10, the identifier distinguishes consumer requests by examining at least part of a persistent client side hypertext file (cookie).
12. The system of claim 1, the associator records association information concerning an association between the at least one resource and the first resource manager in one or more data structures.
13. The system of claim 12, the one or more data structures include at least one of, a table, an array, a list, a tree, a linked list, a hash and a heap.
14. The system of claim 12, the one or more data structures contain a mapping between the at least one resource and the first resource manager.
15. The system of claim 1, the associator records association information concerning an association between the at least one resource and the first resource manager in one or more databases.
16. The system of claim 15, the one or more databases contain a mapping between the at least one resource and the first resource manager.
17. The system of claim 1, the router accesses one or more data structures containing routing information that facilitates routing the request associated with the registering consumer to the first resource manager.
18. The system of claim 17, the one or more data structures include at least one of, a table, an array, a list, a tree, a linked list, a hash and a heap.

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19. The system of claim 18, the one or more data structures contain one or more mappings for one or more consumers to one or more resource managers.
20. The system of claim 1, the router accesses one or more databases containing information that facilitates routing the request associated with the registering consumer to the first resource manager.
21. The system of claim 20, the one or more databases contain one or more mappings for one or more consumers to one or more resource managers.
22. A computer readable medium storing computer executable components to effect the system of claim 1.
23. A method for processing requests from a registering consumer, comprising:
pre-allocating one or more resources for one or more registering consumers;
associating one or more of the pre-allocated resources with a first resource managing component, the first resource managing component operable to manage the one or more pre-allocated resources for the registering consumer;
associating the registering consumer with the first resource managing component; and
routing a request from the registering consumer that requires access to a resource to the first resource managing component.
24. The method of claim 23, data associated with a registering consumer is replicated to one or more resource managers.
25. The method of claim 23, the request requiring access to the resource is not necessarily routed to the first resource manager if the data associated with registering consumer has been replicated to one or more resource managers, the request being routable to the one or more resource managers to which the data has been replicated.

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26. The method of claim 23, the request requiring access to the resource is an HTTP request.

27. The method of claim 23, the registering consumer is registering to use at least one of an application and a service.

28. The method of claim 27, the application being available over the Internet.

29. The method of claim 27, the service being available over the Internet.

30. A computer readable medium having stored thereon computer executable instructions for carrying out the method of claim 23.

31. A data packet adapted to be transmitted between two or more computer processes, the data packet comprising:

information concerning pre-allocating one or more resources for access by one or more registering consumers, the information including at least one of: a resource type; a resource name; a resource capacity; a resource location; a resource availability; an association between a resource and a resource managing component.

32. A system for pre-allocating at least one resource, comprising:

means for pre-allocating the at least one resource for consumption by a consumer;

means for determining whether data concerning the consumer has been

replicated to one or more resource managing components;

means for associating the at least one pre-allocated resource with a first resource managing component, where the first resource managing component manages the at least one pre-allocated resource for the consumer before the data concerning the consumer has been replicated to the one or more resource managing components; and

means for routing a request generated by the consumer, for whom data has not been replicated to the one or more resource managing components, to the first resource managing component.

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X. Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))

None.

XI. Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))

None.